

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

MOBILE BAY WATCH, INC.,)	
An Alabama Non-Profit Corporation,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 04-0302-CG-C
)	
THE WATER WORKS AND SEWER)	
BOARD OF THE CITY OF PRICHARD,)	
ALABAMA,)	
)	
Defendant,)	
)	
v.)	
)	
THE ALABAMA DEPARTMENT OF)	
ENVIRONMENTAL MANAGEMENT,)	
McCRORY AND WILLIAMS, INC.,)	
a corporation; <u>et al.</u>)	
)	
Third-Party Defendants)	

ORDER

This matter is before the court on plaintiff's motion to stay (Doc. 87), and the joint motion of third-party defendants, Veolia Water North America Operating Services, Inc. ("Veolia") and Operation Technologies, Inc. ("Op-Tech") to stay (Doc. 88), the objection to both motions to stay filed by third-party defendant McCrory & Williams, Inc. ("McCrory & Williams") (Doc. 89) and McCrory & Williams' motion for extension of time to file dispositive motions (Doc. 90). Plaintiff states that counsel for defendant concurs with its motion to stay. The two motions seek a stay for different reasons. Plaintiff's motion requests a stay pending mediation of this matter in conjunction

with the enforcement action filed by the State of Alabama in the Circuit Court of Mobile County, Alabama. Third-party defendants seek a stay because a crucial witness in this case, Paul David, was recently convicted of criminal negligence relating to the illegal discharge of untreated sewage from the City of Prichard Water Works & Sewer Board and is currently appealing his conviction. Paul David has asserted his Fifth Amendment privilege and declined to testify. As such, Veolia and Op-Tech believe discovery in this matter would be significantly hindered until the criminal action against Paul David is concluded. McCrory & Williams agrees that discovery directed to non-party Paul David should be stayed until that criminal prosecution is concluded. However, McCrory & Williams submits that all other discovery should be allowed to proceed, although the discovery deadline should be extended until at least the end of November 2005. McCrory & Williams further submits that sufficient discovery has been conducted to support a judgment as a matter of law in favor of McCrory & Williams and requests that if the court is inclined to grant the motion to stay, that the order of stay allow the filing of dispositive motions.

Upon consideration, the court finds it appropriate to stay this case. The parties intend to mediate this case and agree that discovery cannot be completed until the conclusion of Paul David's criminal prosecution. However, to the extent the discovery conducted is sufficient for the court to make a determination regarding any dispositive motions, the court will allow the parties to file such motions. Therefore, the motions to stay are **GRANTED IN PART** and discovery in this matter is hereby **STAYED** until further order of the court. The motion of McCrory & Williams for extension of time to file dispositive motions (Doc. 90) is **GRANTED**, the deadline for filing dispositive motions will be set once the stay of this matter is lifted, although any party may file a dispositive motion at any time, despite the stay.

DONE and ORDERED this 16th day of August, 2005.

/s/ Callie V. S. Granade

CHIEF UNITED STATES DISTRICT JUDGE